



The Task Force on Court Facilities
455 Golden Gate Avenue, San Francisco, CA 94102-3660

FINANCE AND IMPLEMENTATION COMMITTEE

Meeting Report

June 1, 2000

Holiday Inn and Convention Center
Redding

TASK FORCE ATTENDEES: Hon. Daniel Kremer	PRESENTERS: Mr. Jay Smith, DMJM Dr. Thomas Gardner, VITETTA
COMMITTEE MEMBERS: PRESENT: Mr. David Janssen, Chair Mr. Greg Abel Mr. Fred Klass Hon. Charles Smith Hon. Diane Wick	TASK FORCE STAFF: Mr. Bob Lloyd Ms. Pat Bonderud (part time) Mr. Bruce Newman (part time)
ABSENT: None	CONSULTANTS TO THE TASK FORCE: Dr. Thomas Gardner, VITETTA Ms. Kit Cole, VITETTA Mr. Jay Smith, DMJM
	GUESTS: Mr. John Abbott, Orange County Counsel's office Mr. Kevin Carruth, County of Santa Clara Mr. Bruce Doenges, Ventura Superior Court Mr. Joseph T. Fallin, Los Angeles Superior Court Ms. Sally Lukenbill, Department of Finance Ms. Tressa Ketner, San Bernardino Superior Court Mr. Bill Kunde, County of Yolo Facilities Services Mr. Al Lopez, Sacramento Superior Court Mr. Rubin Lopez, CSAC Mr. Nick Marinovich, San Diego County Department of General Services Mr. Jack Miller, San Diego County Department of General Services Mr. Garry Raley, Riverside Superior Court Mr. John Van Whervin, Los Angeles Superior Court

Committee agenda

1. Review and discuss consensus reached by Task Force at May 31 meeting
2. Review and discuss first draft of legislative language prepared by consultants
3. Review and discuss matrix of consensus issues, including outstanding issues
4. Update from consultants regarding survey findings

Agenda Item #1

Review and discuss consensus reached by Task Force at May 31 meeting

The Committee discussed the consensus issues agreed to by the Task Force at its May 31 meeting. The consensus reached by the Task Force is as follows:

Responsibility

- 1- The state shall be fully responsible for all court facilities, including providing facilities for current and future judges and staff. ~~“Responsibility” can include lease as well as holding title.~~

Fiscal neutrality

1. Responsibility for funding existing debt on facilities shall remain with counties until the debt is retired, either directly or by transferring the revenue stream and debt to the state.
2. If title transfers, it shall do so without payment ~~from the state to the counties~~ for capitalized value of the buildings.
3. A base year shall be identified which will determine the amount of the counties’ obligation for operations and maintenance payments to the state, pursuant to an MOE between the state and the counties.

Transfer principles

1. *It is critical to expedite the transfer responsibility for court facilities to the state.*
2. The transfer of responsibility shall be accomplished through negotiations between *the state, courts and the counties.*
3. The state shall not hold the counties liable for deferred maintenance that existed in the base year and for which no funds were earmarked to address that maintenance.
4. Facilities determined as unsuitable for court use may or may not be transferred based on outcomes of negotiations between *the state, courts and the counties.*
5. ~~Certain special classes of facilities, such as historically significant buildings, may or may not transfer, but may be leased by the state for court use.~~
6. Issues regarding occupancy and use of space within a mixed-use building shall be agreed upon by *the state, courts and the counties* and shall be spelled out in an MOU.

Changes reflect the determination of the Task Force at its May 31 meeting.

Agenda Item #2

Review and discuss first draft of legislative language prepared by consultants

The Committee asked the consultants to amend various sections of the legislation. These amendments will be reflected in the version provided to the Committee for its June 20 conference call.

Briefly, the amendments included:

- Deleting the references to the Administrative Office of the Courts and replacing with reference to the Judicial Council.
- Directing the consultants to make item #4 in section 3 “Governance,” page 4, regarding a five-year capital plan consistent with language used for other state agencies.
- Deleting the language on pages 5, 6 and 7 which specifically required the Judicial Council to give authority to the Trial Court Budget Commission regarding facilities and facility budgets and draft language that is less specific related to the Judicial Council’s responsibility regarding facilities and budgets.
- Deleting items #4 and #6 in section 5 “Responsibility for Providing Court Facilities” and adding sections which establish the authority of the Judicial Council in relation to accepting or rejecting facilities.

Agenda Item #3

Review and discuss matrix of consensus issues, including outstanding issues

The Committee discussed the outstanding issues to date, including:

1. Projects in pipeline (projects versus buildings)
2. Criteria for transfer (process or rules approach)
3. Which entity will own the buildings (i.e., Judicial Council versus DGS, etc.)?
4. In the interim (transitional challenges):
 - Keeping county funds in projects
 - Keeping counties working on projects
 - Keeping buildings maintained adequately

After significant discussion, Mr. Janssen summarized the some of the Committee's prior recommendations regarding outstanding issues, including:

- As of July 1, 2001, all new judges and staff continue to be the responsibility of the state.
- The maintenance of effort (MOE) between the state, the court and the counties should be based on the base year with dates and computation method to be establish to ensure continued funding of operations and maintenance costs by the counties.
- The state should agree to reimburse counties for interim planning and design costs for court facilities, based upon review and approval by the Department of Finance, prior to work commencing. A date certain for projects in progress was not discussed and remains an outstanding issue.
- The Committee should make the transition period a period of time "certain" to try and decrease the uncertainty in counties currently regarding court facilities.
- An appeal process should be established for those counties that wish to protest the determination of the state that the county facilities are "unsuitable" for court use.

The Committee further discussed each of the outstanding issues as follows:

Operations and maintenance payments from the counties to the state

The Committee determined that the payment for operations and maintenance costs from the counties to the state would continue to be a responsibility of the counties. The Committee discussed determining the amounts of these payments based on two different formulas, either an analysis of each county's expenditures over the past three years or, as Judge Wick suggested, a flat per square footage charge which each county would pay. The per square footage charge could be adjusted to accommodate regional differences in costs (i.e., San Diego County costs might be higher than Alpine County's costs).

Mr. Abel suggested that the per square footage charge could vary widely and may be inconsistent with the Committee's principles of revenue neutrality. The Committee asked the consultants to examine the Department of General Services standards and practices will use the information at the next meeting/conference call to make a determination of which formula is most appropriate.

"Deficient" buildings

Mr. Klass suggested that the financial commitment of a county for operations and maintenance costs (including deferred maintenance) could be based on the fiscal capacity of the county to maintain the building, with the counties holding the burden of proof if their allocations towards operations and maintenance were deemed insufficient by the state. Additionally, Mr. Klass stated that the state needs some discretion in terms of negotiating with counties that have buildings with significant deferred maintenance.

The Committee decided to adopt as the standard of classification of buildings the Task Force's definitions of "adequate," "marginal" and "deficient" with negotiations focused on how to provide and fund space for courts when counties have deficient facilities. The Committee will discuss this issue, including how the Task Force is quantifying the costs of bringing facilities up to certain "adequate" levels as well as provide for anticipated growth at future meetings/conference calls.

Ownership

The Committee determined that the Department of General Services would hold title to the buildings, while the Judicial Council would be charged in the legislation with the responsibility for those buildings.

Pipeline

The Committee determined that money “allocated” (with exact terms to be determined by the consultants and inserted into the legislation) by the county (at any time) from the county’s general fund for a court facilities project should transfer to the state. The state would make a commitment that funds transferred from that county will be spent in that county by the state.

Transition timeframe

The Committee discussed putting a time limit on the transition period and whether doing so would provide a degree of certainty for the counties. The issue remains outstanding and will be discussed at the next meeting/conference call. There was also some discussion by the Committee of phasing the transition, similar to phasing which occurred with the operations transition.

Mixed-use buildings

The Committee determined generally that leasing was the appropriate remedy for mixed-use buildings, which make up the majority of court facilities in the state.

The Committee discussed what to do with tenants of mixed-use buildings if the state or county leases the building to the other party and determines to expand in the space. For example, if the state were leasing part of a mixed-use building from the county and decided it needed additional space, would the county be responsible for paying the moving costs of the DA’s office or the public defender’s office? The Committee decided to leave this issue open for discussion at the next meeting/conference call.

Negotiation team

The Committee determined that the county, the AOC, the local court would be “at the table” during negotiations, with the Department of General Services and the Department of Finance permitted to be observers of the process.

Appeals process

The Committee determined that all appeals would go to the Department of Finance, similar to the process that was established for the MOE between the counties and the AOC regarding reimbursement for certain operating expenses.

Parking

The Committee discussed the issue of parking, including whether the state, courts or counties should provide parking, and determined that parking should be a topic of discussion at its next meeting/conference call.

First right of refusal for counties

The Committee determined that current law regarding disposal of surplus facilities owned or controlled by the state should prevail. Local governments currently have first right of refusal for surplus facilities the state wishes to sell.

Continue the responsibility of the state for future judges and staff

The Committee agreed to extend, in the legislation, the current mandate that the state provide facilities for new judges and staff, which expires June 30, 2001.

Action requested of consultants

Mr. Janssen requested that the consultants examine DGS' costs and charges related to operations and maintenance, as well as new capital and report back at the next Committee meeting.

Mr. Janssen also requested that the consultants prepare a decision matrix for use in determining which party should pay moving costs or the cost of replacement space when the county or state is going to expand in a mixed-use building and "displace" other tenants.

Agenda Item #4

Survey findings to date

Dr. Gardner briefly updated the Committee on the status of the survey. Additional material and further updates will be provided at the next conference call or meeting of the Committee.

Upcoming meetings and conference calls

At the conclusion of the meeting, the Committee determined it would meet, via conference call or meetings, on the following dates. Additional information regarding agendas and locations will be distributed following the meeting.

Tuesday	June 20	4 p.m.	Conference call
Thursday	July 27	10 a.m. – 2 p.m.	Meeting in Sacramento with location TBD
Tuesday	August 15	4 p.m.	Conference call